

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 10-23-02 Item. 3.f.

File Number
CP 02-042

Application Type
Conditional Use Permit

Council District
5

Planning Area
Alum Rock

Assessor's Parcel Number(s)
481-39-024

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Susan Walsh

Location: Northeast corner of Highway 680 and Highway 101

Gross Acreage: 14.22

Net Acreage: 14.22

Net Density: N/A

Existing Zoning: R-1-8 Residential

Existing Use: Police Athletics League (PAL Stadium)

Proposed Zoning: No change

Proposed Use: Three wireless communications antennas mounted on an existing light pole and ancillary equipment

GENERAL PLAN

Completed by: SBW

Land Use/Transportation Diagram Designation
Public Park Open Space

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING (CHECK ZONING AT COUNTER!!)

Completed by: SBW

North: Multiple family and Single-family detached residential

R-MH and RM Residence

East: Highway 101

R-1-8 Residence

South: Interstate 680

R-1-5 Residence

West: South King Road

R-MH and R-2 Residence

ENVIRONMENTAL STATUS

Completed by: SBW

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: SBW

Annexation Title: None

Date:

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____
☐ _____

Approved by: _____
☒ Action
☐ Recommendation

OWNER

City of San Jose, c/o Steve Ford, Real Estate
84 West Santa Clara St.
San Jose, CA 95113

APPLICANT/DEVELOPER

Cingular Wireless c/o Leah Hernikl
Ruth and Going
2216 The Alameda Santa Clara, CA 95050

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SBW

Department of Public Works

No comments

Other Departments and AgenciesN/A

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Cingular Wireless, is requesting a Conditional Use Permit to allow the installation of three wireless communication antennas mounted on an existing baseball stadium light pole at the Police Athletic League (PAL) Stadium. The proposed project consists of the installation of three wireless communication antennas mounted on one of the existing 90-foot tall baseball stadium light standards. The existing light standard is located on the southwest corner of the baseball field, over 250 feet from the nearest residential property line. Associated equipment will be housed in a new equipment shelter located near the base of the light pole.

The light standards were installed in 1968-69 when the PAL Stadium was constructed. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas located in a residential zoning district.

Surrounding land uses include multiple family and single-family detached houses to the north, Interstate 680 to the south, Highway 101 to the west, and South King Road to the east.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from antennas of the proposed type posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined that the reported interference resulted from cordless telephones and not from the antennas.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act pursuant to Section 15303 which pertains to the new construction or conversion of small structures such as that which is proposed.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the subject site's General Plan Land Use/Transportation Diagram designation of Public/Park Open Space in that this category is used to designate lands owned by public agencies including uses such as golf courses, athletic stadiums, fairgrounds and other similar uses. It also allows for facilities of any organization involved in the provision of public services such as telecommunications.

ANALYSIS

The primary issues analyzed for the project include: 1) conformance to the Zoning Ordinance; and 2) conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas.

Conformance to the Zoning Ordinance Requirements

The maximum building height for structures in the R-1-8 Residence Zoning District, which includes most building-mounted structures and appurtenances, is 35 feet. However, there is a maximum height exception in the Zoning Ordinance code that allows antennas to be mounted to existing buildings or structures greater than 60 feet in height.

Use of this exception requires that building/structure-mounted antennas project no more than 10 feet above the surface on which they are located, be architecturally integrated into the building, and that they not contribute to visual clutter. The proposed antennas have been designed and placed such that they are 1.5 feet less than the overall 90 foot height of the existing light standard. The antennas will have minimal visibility and will not create visual clutter on the light standard. They will be mounted close to the face of the light standard and will be painted to match the existing color.

Conformance to the Council Policy for Wireless Communications Facilities

The proposed project conforms to key applicable elements of the Council policy. The policy recommends building-mounted antennas to be located a minimum of 50 feet horizontally from any property with a residential use or General Plan designation. Consistent with Council policy, the proposed antennas are located approximately 260 feet horizontally from the nearest existing single-family residences.

The proposed antennas conform to the policy for height in that the subject antennas do not project more than 10 above the height of the light standard. The antennas will not extend above the height of the existing light standard.

The Council Policy requires building or structure-mounted antennas to be located as to minimize visual impacts, and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. The proposed antennas and equipment cabinet are set well back from the public right-of-way and from existing residences in the area. Existing and new landscaping will serve as adequate screening from off-site and on-site. Additionally, staff is recommending that the applicant install some landscaping at the entry to the parking lot, plant six new native shade trees in the parking lot and repair the existing wood slat fencing at the entry to the parking lot.

In conclusion, the proposed antennas will be architecturally integrated into the design of the existing light standard and will be compatible with the surrounding land uses. Therefore, staff recommends approval of the proposed antennas.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public Park/Open Space on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. The proposed antennas will be located approximately 260 feet from the nearest residential use.
4. The equipment cabinet will be screened with fencing and will not be visible from any adjoining properties and new shade trees will be provided in the parking lot.
5. The proposed project installs a total of three wireless communication antennas mounted on one of several existing 90-foot tall football stadium light standards. The proposed antennas would have a maximum height of approximately 82 feet and do not extend above the height of the existing 90-foot light standard.
6. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not

- a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "PAL Field Lights SF-940-03 Cingular Wireless", dated June 24, 2002, last revised on July 3, 2002, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
2. **Plan Revision.** Within 60 days of the issuance of this permit and prior to the recordation, the applicant shall revise the project plans to include the items(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a. The applicant shall submit a landscape plan showing the location of six new native trees in the parking lot, landscaping (including shrubs and trees) at the entry and repair of the existing wood slat fence at the entry to the parking lot.
 - b. The applicant shall specify all colors for the antennas on the plans.
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no new on-site lighting.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Colors and Materials.** All colors and materials shall be as specified on the approved plan set.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-042 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
9. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

11. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
12. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
13. **Co-location.** This proposal shall not preclude the co-location of other similar wireless antenna facilities.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.